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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/538,223	03/30/2000	Miyuki Enokida	862.c-1880	8772

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NEW YORK, NY 10112

EXAMINER

LAMB, TWYLER MARIE

ART UNIT	PAPER NUMBER
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2622

DATE MAILED: 05/20/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/538,223

Applicant(s)

ENOKIDA ET AL.

Examiner

Twyler M. Lamb

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 March 2000.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-67 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-5, 11-17, 26-32, 38-47, 56-65 and 67 is/are allowed.
- 6) ☒ Claim(s) 6-10, 18-23, 33-37, 48-53 and 66 is/are rejected.
- 7) ☒ Claim(s) 24, 25, 54 and 55 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 5.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

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DETAILED ACTION

Priority

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Specification

2. The abstract of the disclosure is objected to because the abstract is not to exceed 150 words. Correction is required. See MPEP § 608.01(b).

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 6-10, 18, 33-37, 48 and 66 are rejected under 35 U.S.C. 102(e) as being anticipated by Herman et al. (US 6,075,905).

With regard to claims 6 and 33, Herman discloses an image processing apparatus (Figure 1) for forming a mosaic image by combining a plurality of material images stored in storage means (which reads on source images from various storage media) (col 4, lines 11-19), comprising: input means (source images) for inputting a first

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image that is the basis of a mosaic image; dividing means for dividing the first image into a plurality of image areas (col 4, lines 11-19); designation means for designating an important area of the material images which form the mosaic image (Figure 1, element 101, col 4, lines 12-19, col 4, lines 39-43); and selection means for selecting material images corresponding to the image areas based upon the important area designated by said designation means (Figure 1, element 105, col 4, lines 24-38).

With regard to claims 7 and 34, Herman also discloses wherein said selection means selects material images corresponding to the image areas based on result of calculation performed upon weighting an image characteristic of the important area (col 4, lines 24-38).

With regard to claims 8 and 35, Herman also discloses wherein the image characteristic is average R, G, B values of pixel values which constitute the material images and image areas (col 15, lines 8-22, see determine color space affined transformation among the R, G, B component signals that brings the second image closest to the first).

With regard to claim 9, Herman also discloses wherein the result of calculation is a difference between image characteristics of the material images and image areas (col 15, lines 8-22, see determine color space affined transformation among the R, G, B component signals that brings the second image closest to the first).

With regard to claims 10, 36 and 37, Herman also discloses further comprising generating means for generating a mosaic image by pasting material images, which

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have been selected by said selection means, to corresponding image areas (Fig 1, element 105, col 4, lines 24-38).

With regard to claims 18, 48 and 66, Herman discloses an image processing apparatus (Figure 1) for combining a plurality of material images (source images), which have been selected from a plurality of material images (col 4, lines 23-25), to thereby create an image patterned after an original image (col 3, lines 63-67), comprising: designation means for designating a partial area in the original image (Figure 1, element 101, col 4, lines 12-19, col 4, lines 39-43); dividing means for dividing the original image into a plurality of areas (Fig 1, element 101, col 4, lines 12-19, col 4, lines 39-43, note cutting sub image out of larger images); and similar-image selection means for preferentially selecting, from among the plurality of material images, a material image that most closely resembles the partial area designated by said designation means (Figure 1, element 102, col 4, lines 23-25).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 19-23 and 49-53 are rejected under 35 U.S.C. 103(a) as being unpatentable over Herman et al. (US 6,075,905) in view of Nagao (US 6,373,992).

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With regard to claims 19 and 49, Herman does not teach further comprising calculation means for calculating average density of each of the plurality of material images.

Nagao discloses a method for retrieving images that includes calculation means for calculating average density of each of the plurality of material images (col 13, line 53 – col 15, line 55).

Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to have modified Herman to include calculation means for calculating average density of each of the plurality of material images as taught by Nagao. It would have been obvious to one of ordinary skill in the art at the time of the invention to have modified Herman by the teaching of Nagao to show the difference between the sharpness enhanced image and the smoothed image as taught by Nagao in col 13, line 53 – col 15, line 55.

With regard to claims 20 and 50, Herman does not teach said similar-image selection means has arithmetic means for calculating average densities of the areas; wherein material images to be assigned to the areas being decided in accordance with differences between average densities of respective ones of the areas in calculated by said calculation means and average densities of respective ones of the plurality of material images.

Nagao discloses a method for retrieving images that includes wherein said similar-image selection means has arithmetic means for calculating average densities of the areas; wherein material images to be assigned to the areas being decided in

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accordance with differences between average densities of respective ones of the areas in calculated by said calculation means and average densities of respective ones of the plurality of material images (col 13, line 53 – col 15, line 55).

Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to have modified Herman to include wherein said similar-image selection means has arithmetic means for calculating average densities of the areas; wherein material images to be assigned to the areas being decided in accordance with differences between average densities of respective ones of the areas in calculated by said calculation means and average densities of respective ones of the plurality of material images as taught by Nagao. It would have been obvious to one of ordinary skill in the art at the time of the invention to have modified Herman by the teaching of Nagao to show the difference between the sharpness enhanced image and the smoothed image as taught by Nagao in col 13, line 53 – col 15, line 55.

With regard to claims 21 and 51, Herman does not teach said similar-image selection means has arithmetic means for calculating average densities of the areas; wherein material images to be assigned to the areas being decided in accordance with differences between average densities, calculated by said arithmetic means, of areas determined not to include the partial area and average densities of respective ones of the plurality of material images not selected by said similar-image selection means.

Nagao discloses a method for retrieving images that includes wherein said similar-image selection means has arithmetic means for calculating average densities of the areas; wherein material images to be assigned to the areas being decided in

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accordance with differences between average densities, calculated by said arithmetic means, of areas determined not to include the partial area and average densities of respective ones of the plurality of material images not selected by said similar-image selection means (col 13, line 53 – col 15, line 55).

Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to have modified Herman to include wherein said similar-image selection means has arithmetic means for calculating average densities of the areas; wherein material images to be assigned to the areas being decided in accordance with differences between average densities, calculated by said arithmetic means, of areas determined not to include the partial area and average densities of respective ones of the plurality of material images not selected by said similar-image selection means as taught by Nagao. It would have been obvious to one of ordinary skill in the art at the time of the invention to have modified Herman by the teaching of Nagao to show the difference between the sharpness enhanced image and the smoothed image as taught by Nagao in col 13, line 53 – col 15, line 55.

With regard to claims 22 and 52, Herman as modified also discloses wherein said designation means includes: display means for displaying the original image (col 6, lines 36-44); and means for designating a partial area of the image displayed by said display means (col 6, lines 44-51).

With regard to claims 23 and 53, Herman as modified also discloses wherein said designation means has means for automatically discriminating and designating the

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partial area of the original image (Figure 1, element 101, col 4, lines 12-19, col 4, lines 39-43).

Allowable Subject Matter

7. Claims 1-5, 11-17, 26-32, 38-47, 56-65, 67 are allowed.
8. Claims 24-25, 54-55 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Twyler Lamb whose telephone number is 703 - 305-8823. The examiner can normally be reached on M-TH (8:30-5:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward L Coles can be reached on 703-305-4712. The fax phone numbers for the organization where this application or proceeding is assigned are 703-746-6036 for regular communications and 703-872-9314 for After Final communications.

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks
Washington, DC 20231

or faxed to:

(703) 872-9314

(for informal or draft communications, such as proposed amendments to be

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discussed at an interview; please label such communications "PROPOSED" or
"DRAFT")

or hand-carried to:

Crystal Park Two
2121 Crystal Drive
Arlington, VA.
Sixth Floor (Receptionist)

Twyler Lamb

A handwritten signature in black ink, appearing to be 'T. Lamb' or similar, written in a cursive style.

May 19, 2003